THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.4498 of 2007

06-03-2007

Between:-

M/s. Tirumala Enterprises, rep., by its Managing Partners-
K. Venkateswara Rao, Tadepalligudem, West Godavari district.

Petitioner

And

Joint Collector, West Godavari, Eluru,
West Godavari district and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 4498 of 2007

Oral order:

On 14-02-2007, the petitioner's premises at Door Nos. 11.1.91/1,2 and Door Nos. 12.24.12/8, 11A, 13A, 12.23.4, 11.10.10/1,2 in Tadepalligudem town were inspected by the Vigilance and Enforcement Wing of Civil Supplies Department, Rajahmundry. The scheduled commodities mentioned in the respondents' proceedings dated 28-02-2007 were found stored unauthorizedly. The petitioner does not have a license under the provisions of the Andhra Pradesh Scheduled Commodities (Licensing and Distribution) Order, 1982 (for short 'the Control Orders'). On the ground of violation of the provisions of the Control Order and also violation of the provisions of

the Essential Commodities Act, 1955 (for short 'the Act'), the stocks were seized under a panchanama and a case under Section 6-A of the Act was initiated against the petitioner. By an order dated 28-02-2007, the respondents directed interim disposal of the seized commodities belonging to the petitioner under Section 6-A (2) of the Act. The respondents recorded that as the stock seized is subject to speedy and natural decay (one of the permissible grounds for exercise of discretion under Section 6-A (2) of the Act), the order of interim disposal of seized stock is passed. The seized commodities include Green Gram Dal, Green Gram, Red Gram Dal, Bengal Gram Dal, Black Gram Dal without layer, Black Gram without layer, Black Gram, Black Gram Dal and Bengal Gram Dal with dry. None of these commodities are *per se* subject to speedy and natural decay, as the said expression is to be understood. The reason and the satisfaction recorded by the respondents for exercise of power and authority under Section 6-A (2) of the Act is, therefore, perverse. A ritualistic incantation of the statutory conditions for exercise of discretion has been employed without application of mind as to the nature of the commodity and whether such a commodity, in the nature of the relevant circumstances, is in fact subject to speedy and natural decay.

The learned Government Pleader for Civil Supplies submits that the reasons recorded do not compost with

the legislative conditions for its exercise, spelt out in Section 6-A (2) of the Act. On principle and on the basis of submission of the learned Government Pleader for Civil Supplies, the order of the respondents dated 28-02-2007 is seen to be unsustainable and it is accordingly quashed. The respondents are, however at liberty to pass a fresh order in accordance with law and in textual and substantive compliance with the provisions of Section 6-A (2) of the Act. Till then however the respondents shall forbear from directing interim disposal of the seized commodities. The respondents are also at liberty to consider any application of the petitioner for interim release of the seized stocks pending the proceedings under Section 6-A of the Act. Nothing in this order shall be construed as an expression by this court on the merits of any such application of the petitioner. Any application of the petitioner shall be considered on its own merits and on lawful exercise of discretion.

The writ petition is allowed as above. There shall be no order as to costs.

_____

GODA RAGHURAM, J

Dated:06-03-2007
Pvks/*

Nb: Furnish c.c. in three days.
B/o pvks